

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

118615

FILE: B-207354

DATE: June 7, 1982

MATTER OF: Roehl Construction Co., Inc.

DIGEST:

1. Protest filed with our Office more than 10 days after basis of protest was known is untimely under our Bid Protest Procedures and will not be considered by our Office. 4 C.F.R. § 21.2(b)(2) (1981).
2. Protest that awardee under small business set-aside should not have been considered a small business firm is dismissed since the Small Business Administration is empowered to make conclusive determinations on matters of small business size status.

Roehl Construction Co., Inc. (Roehl), protests the award of a contract by Union Carbide Corporation on behalf of the Department of Energy to Renfro Construction Company (Renfro) under invitation for bids No. 6756-71, a small business set-aside. Roehl protests its exclusion from meetings held between Union Carbide Corporation and Renfro, that Renfro is not a small business and that Renfro's bid is nonresponsive. We dismiss the protest.

Our Bid Protest Procedures require that protests be filed with the General Counsel, General Accounting Office, Washington, D.C., within 10 days of when the basis of protest is known or should have been known. 4 C.F.R. § 21.2(b)(2) (1981). Roehl learned of its basis for protest on or about February 25, 1982. However, the protest was filed with our Knoxville, Tennessee, office in mid-April and subsequently forwarded to the General Counsel on May 4, 1982. Since the protest was filed more than 10 days after February 25, 1982, it is untimely and we will not consider the matter. See Kerper House, Inc., B-205516, March 2, 1982, 82-1 CPD 185.

We also note that under 15 U.S.C. § 637(b)(6) (1976), the Small Business Administration has the authority to make conclusive determinations on matters of small business size status. Our Office, therefore, does not review size status protests. See Transcon Associates Inc., B-204991, April 20, 1982, 82-1 CPD 361.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel